IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

-

WRIT PETITION NO : 8455 of 1995

Between:

1 Konduri mallesham s/o Komaraiah
Karimnagar town Karimnagar
2 Koduri Veersam
Karimnagar town Karimnagar
3 K Sandamma w/o late K Ramchander
Karimnaga town Karimnagar
4 K Parasuram
Karimnagar town Karimnagar
5 B Parasuram
Karimnagar town Karimnagar

..... Petitioners

and

1 The commissioner,
Karimnagar Municipality Karimnagar
2 The District Collector
Karimnagar
3 The Revenu Divisional Officer
Karimnagar

.....Respondents

Petition under article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ order or direction more in the nature of Writ of Mandamus directing the respondents to pass award and pay compensation to the petitioners or their lands

admeasuring ac. 1-08 guntas in S.No.238 situate in Karimnagar town which has been occupied and through which a road has been laid by the Respondent No.1

Counsel for the Petitioner: MR.I.AGA REDDY

Counsel for the Respondent No.: MR.R.TIMMA REDDY

The Court at the admission stage made the following :

ORDER:

-

This writ petition is filed seeking a Writ of Mandamus directing the respondents to pass an award and to pay compensation to the petitioners for their lands, admeasuring Ac.1-08 Guntas in Survey No.238 situate in Karimanagar Town, which was acquired for the purpose of laying a road by the 1st respondent-The Commissioner, Karimnagar Municipality. Karimnagar.

In fact, in the earlier round of litigation the petitioners approached this Court and filed W.P.No.8848 of 1989 complaining the inordinate delay in paying the compensation to them. After hearing the learned Counsel, a learned Single Judge of this Court by his order dated 19.03.1990 disposed of the said writ petition with the following observation:-

> "In spite of several adjournments, the respondents have not filed counters. The factum of possession being taken over has not been disputed. In the circumstances, the writ petition is allowed with the following direction:
>
> Within two months from the date of receipt of this order, the

respondents shall pass the award and pay the compensation amount to the petitioners."

As the said direction was not complied with within the stipulated period, the petitioners again moved this Court by filing Contempt Case No.688 of 1990, and the same was closed by another learned Single Judge on 14.10.1993 observing as follows:-

> "It is really unfortunate case where the lands of the petitioners were taken possession in the year 1985 and roads were laid and the first respondent is prepared to deliver back the possession of lands of the petitioners and the petitioners are entitled to claim damages for use and occupation of the lands by the first respondent. Therefore, the first respondent is directed to deliver the possession of the lands to the petitioners within one month from this date. The petitioners were also entitled to claim damages for use and occupation of the lands. Since the first respondent-Municipality states in its counter that it is prepared to pay reasonable compensation and if the petitioners and first respondent agree for a reasonable amount of compensation, it is open to them to arrive at a settlement."

Now the grievance of the petitioners in this writ petition is that despite the disposal of the said writ petition and the contempt case, neither the compensation is paid nor the possession of the lands have been delivered to them.

Heard both the learned Counsel.

It is really unfortunate to note that the petitioners were forced to part with their lands as early as on 23.09.1982 and they were made to run pillar to post for compensation amount, to which they are legally entitled. From the record, it is also clear that an enquiry, as contemplated under Section 11 of the Land Acquisition Act, was also held as early as in the month of August, 1988, and the petitioners participated in the same. No reasons are forthcoming as to why the land acquisition Officer has not passed an award, though the said enquiry was completed.

The learned Counsel appearing for the petitioners has drawn my attention to the amended provision of Section 11-A of the Land Acquisition Act, which mandates that if the award is not passed within a period of two years from the date of publication of the declaration, the entire proceedings of acquisition of the land shall lapse.

Admittedly, in the present case, a draft declaration was made on 24.11.1987, but no award was passed on or before 23.11.1989. Therefore, in view of the language employed under Section 11-A of the Land Acquisition Act, it shall be held in this case the entire proceedings of acquisition of the land is lapsed.

In the light of the foregoing reasons, the second and third respondents are hereby directed to initiate the land acquisition proceedings afresh and pass an award. The said exercise shall be completed as expeditiously as possible, preferably, within a period of six months.

With the above directions, the Writ Petition is allowed. No costs.

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18th November, 2004

bud/vp

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday the Eighteenthday of November, Two Thousand and Four.

Copy to:

1. The Commissioner, Karimnar Municipality,
   Karimnagar.
2. The District Collector, Karimnagar.
3. The Revenue Divisional officer, Karimnagar.
4. Two C.D. Copies.